

Application No.: 10/761,347  
Inventor: Oba, Yoshihiro and Baba, Shinichi  
Reply to Advisory Action of March 15, 2006  
Docket No.: 3119-102

### **REMARKS/ARGUMENTS**

#### **Claim Rejections under 35 USC § 102(e) and 35 USC § 103(a)**

In the Advisory Action of March 15, 2006, the Examiner maintained the rejection of the claims of the instant application under 35 USC § 102(e) and 35 USC § 103(a) in view, in part, of Acharya et al. (US PGPub2005/010836), which was filed on October 31, 2003. The Applicants respectfully traverse the rejection.

As noted in the Applicants response of October 24, 2005, Acharya fails to disclose, teach or suggest each and every element of the claims as required to maintain a rejection under 35 USC §102(e) and 35 USC §103(a).

Notwithstanding the above, Applicants further respectfully submit that, in view of the appended Declaration Pursuant to 37 CFR § 1.131 (Hereinafter "Declaration"), Acharya is unavailable as a prior art reference to maintain the rejections under 35 USC § 102(e) and 35 USC § 103(a). More specifically, the Applicants' Declaration illustrates by supporting factual evidence that the inventors of the subject matter of the instant application and claims conceived of the subject matter of the instant application and claims prior to the critical date of Acharya et al.; that is, before October 31, 2003.

Additionally, the appended Declaration illustrates by supporting factual evidence that the inventors, the inventors' attorneys, and Assignee acted with the utmost diligence and effort from the date of conception until the filing of the instant application on January 22, 2003, which resulted in the constructive reduction to practice of the invention.

In view thereof, Applicants respectively request the Examiner withdraw the rejections under 35 USC § 102(e) and 35 USC § 103(a) in view of Acharya et al.

#### **References Disclosed**

For the Patent Office's reference, it is noted that the last two pages of Exhibit A includes a disclosure of general background references. While these general background references are not believed to be material to the Examination of this case, in the event that the Examiner desires to receive any copies of such references, these references will be located and copies will be forwarded to the Examiner for reference.

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**Conclusion**

Applicants respectfully submit that the present application is in condition for allowance, which action is courteously requested. Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 14-1437. Please credit any excess fees to such deposit account.

Respectfully submitted,



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Attachments

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